

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

204

(1)

CRM-M-5067-2020

Date of decision: 17.05.2023

Sunil Gandhi

.....Petitioner

Versus

State of Haryana

.....Respondent

(2)

CRM-M-5764-2020

Dalip Kumar Bhola

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Prathem Sethi, Advocate
for the petitioner in CRM-M-5067-2020.

Mr. Pardeep Singh Poonia, Advocate and
Mr. Pulkit Dhanda, Advocate
for the petitioner in CRM-M-5764-2020.

Mr. Chetan Sharma, DAG, Haryana.

Mr. Gurmohan Singh Bedi, Advocate and
Ms. Manpreet Kaur, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. This order shall dispose of the abovementioned two petitions as both the petitioners are seeking the concession of anticipatory bail under Section 438 of the Cr.P.C. in case FIR No.331 dated 22.06.2016 under Sections 420 and 120-B of the IPC and Section 3(32) 14 HPDIFE Act, 2014 registered at Police Station Manesar, District Gurugram.

2. Learned State counsel, on instructions, submits that in compliance of order dated 02.03.2020, the petitioners appeared and surrendered before the Court concerned and thereafter they were

CRM-M-5067-2020
CRM-M-5764-2020

admitted to interim bail on their furnishing the requisite bail bonds.

3. Learned State counsel, however, submits that no doubt the petitioners had earlier joined investigation and challan had also been presented, however, a Special Investigation Team (for short, 'SIT') had been formed for carrying out further investigation wherein some new material had come to the fore, hence, the concession of interim bail granted to the petitioners be not made absolute.

4. Learned counsel for the petitioners, on the other hand, while vehemently controverting the submissions made by the learned State counsel have submitted that the SIT had been constituted to probe the role of one Ashish Bhalla and no new material had come to the fore against the petitioners. Learned counsel submits that the offences for which the petitioners are being put to trial are triable by Magistrate and rest on documentary evidence which is already in the possession of the investigating agency. It has also been urged by learned counsel for the petitioners that the petitioners had joined investigation and cooperated with the investigating agency, and challan under Section 173 of the Cr.P.C. already stood presented against the petitioners, without effecting their arrest. It has, therefore, been prayed that in the circumstances, order dated 02.03.2020 be made absolute.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. Learned State counsel has opposed the grant of anticipatory bail to the petitioners primarily on the ground that an SIT had been constituted by DGP, Haryana for carrying out further investigation and since some new material had come to the fore, the

petitioners did not deserve the concession of anticipatory bail.

7. A perusal of the status report filed by way of affidavit of Yashwant Singh, HPS, Deputy Superintendent of Police, State Crime Branch, Haryana, Gurugram dated 02.05.2023, reveals that the entire focus of further investigation carried out by the SIT was to unearth the role of one Ashish Bhalla. There is nothing in the entire status report to even remotely suggest that some new material had been collected by the SIT against the petitioners which fact has also not been disputed by the learned State counsel. Further, even the SIT has since concluded its investigation and a supplementary challan under Section 173(8) of the Cr.P.C. stands prepared against accused Ashish Bhalla, however, the same has not been filed in the Trial Court as filing of the challan against Ashish Bhalla has been stayed by a Coordinate Bench of this Court vide order dated 26.09.2022 passed in CRM-M-21958-2022.

8. The Hon'ble Supreme Court in ***Satender Kumar Antil Vs. Central Bureau of Investigation and another : (2022) 10 Supreme Court Cases 51*** has outlined the following requisite conditions for grant of bail to a person accused of offences punishable with imprisonment of 07 years or less, not falling in category B and D:-

(1) Not arrested during investigation.

(2) Cooperated throughout in the investigation including appearing before investigating officer whenever called.

9. In the case in hand, it has not been disputed by the learned State counsel that the petitioners had joined investigation and cooperated with the investigating agency as and when called for, during investigation and accordingly challan under Section 173 of the Cr.P.C.

CRM-M-5067-2020
CRM-M-5764-2020

also already stood presented before the Trial Court. Still further, the entire case of the prosecution rests upon documentary evidence which is already in the possession of the investigating agency and is a part of challan. As already observed hereinabove and not disputed by the learned State counsel as well, no new material has come to the fore against the petitioners even during further investigation carried out by the SIT. Therefore, in the facts and circumstances as enumerated hereinabove coupled with the guidelines issued by the Hon'ble Supreme Court in *Satender Kumar Antil's case (supra)*, this Court does not deem it appropriate to send the petitioners behind bars as it would not serve any useful purpose moreso, when the trial has come to a virtual standstill in the wake of orders passed by a Coordinate Bench of this Court in a quashing petition bearing No.CRM-M-21958-2022 filed by accused Ashish Bhalla.

10. Accordingly, the petitions are allowed and interim order dated 02.03.2020, is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

11. Needless to add, in case the petitioners misuse the concession of bail granted to them, the State would be at liberty to seek cancellation of the same.

17.05.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No